

COUNTY OF SUFFOLK



ROBERT J. GAFFNEY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF
PROBATION

VINCENT J. IARIA
DIRECTOR OF PROBATION

JUVENIE DELINQUENT ADJUSTMENT PROCESS

This fact sheet is intended to help you understand the "adjustment process." If you have any questions or need further clarification, the probation officer assigned to the case will be happy to assist you.

DEFINITIONS:

JUVENILE DELINQUENT: is a person over seven and less than 16 years of age, who is found by the Family Court, to have committed an act that if committed by an adult would constitute a crime. Juvenile delinquents (J.D.'s) are processed through the court system under the statutory authority of Article 3 of the Family Court Act of New York State. (McKinneys Consolidated Laws of New York).

RESPONDENT: the person against whom a juvenile delinquency petition is filed.

PRESENTMENT AGENCY: the agency or authority which is responsible for presenting a juvenile delinquency petition. In Suffolk County, this agency is the County Attorney's Office, for other than designated felony acts. For designated felony acts the agency responsible for filing the petition is the District Attorney's office.

DESIGNATED FELONY ACT: "an act which if done by an adult would be a crime." This category includes the more serious offenses such as: murder (first and second degrees), manslaughter in the first degree, arson in the second degree, rape in the first degree.

APPEARANCE TICKET: "a Family Court Appearance ticket is a written notice issued and subscribed by a peace officer, a probation service (department) director or his designee or the administrator of a detention facility or his designee, directing a child and his parent or other person legally responsible for his care to appear ... at the probation service (department) on a specified date, in connection with the child's alleged commission of a crime or crimes."

FACT-FINDING HEARING: "a hearing to determine whether the respondent or respondents committed the crime or crimes alleged in the petition or petitions."

THE J.D. CASE OPENS WHEN...

A JD case begins with the taking into custody of a child by a police or peace officer as a result of a complaint. When detained, a juvenile is entitled to the same constitutional rights as an adult.

If the child is accused of committing a designated felony act and the Family court is in session, the child must be taken directly to court. If the court is not in session, the officer must release the child upon issuance of an appearance ticket, or, if special circumstances exist, may take the child to a detention facility.

If the child is accused of committing a crime which does not amount to a designated felony and the court is in session the child must be released upon the issuance of an appearance ticket or taken forthwith to the court.

A copy of the Family Court appearance ticket shall be forwarded by the issuing person or agency to the complainant (alleged victim), respondent, respondent's parent and appropriate probation department.

APPEARANCE TICKET:

If the crime alleged to have been committed by such child is not designated a felony, the return date shall be no later than fourteen days after the issuance of such appearance ticket.

After the issuance of an appearance ticket, the case basically progresses from the probation department to the presentment agency and to the court. At each stage the case may be diverted from court. For example, the case may be "adjusted or diverted at probation intake, or the presentment agency may decline to file a petition.

ROLE OF THE PROBATION DEPARTMENT:

The probation department receives notification of the issuance of the appearance ticket and is obligated to take appropriate action.

If the child fails to appear on the date set forth on the appearance ticket, the probation department may immediately refer the case to the presentment agency for possible prosecution. However the probation department may reschedule the matter or attempt to secure attendance within a week. Such action shall involve communication in writing and or by telephone to the child and parent or other person legally responsible for his care. If these efforts are unsuccessful, the probation department must refer the matter to the appropriate presentment agency. The presentment agency can take any action it deems appropriate such as filing a petition, starting an investigation, or deciding not to proceed.

ADJUSTMENT

Adjustment generally means a (final) informal resolution by mutual consent of a case under the

auspices of the probation department.

Adjustment is a purely voluntary process. The Probation Department cannot compel any person to participate.

The probation department may not prevent any person who wishes to request that a petition be filed from having access to the appropriate presentment agency for that purpose.

The probation department is authorized to (with certain exceptions) adjust suitable cases before a juvenile delinquency petition is filed by the appropriate presentment agency with the court.

Examples of adjustment range from warning the child, to multiple counseling sessions or referral to a community agency.

The period during which adjustment may be attempted is limited to two months, unless extended by the court for an additional two months.

If the probation department decides that a case is suitable for adjustment, the assigned probation officer will meet with the child, determine needs for services and make appropriate referrals to community based agencies (Job development programs, mental health clinics, drug/alcohol counseling).

The probation officer will also contact the complainant to obtain consent to the adjustment process and assess the complainant's losses with a goal of collecting restitution (monetary compensation) from the child.

The probation department cannot communicate to the presentment agency any statement made by the child to the probation department. However, other information, such as the arresting officer's report and records of previous adjustments and arrests, can be provided.

No statement made to the probation department prior to the filing of a petition may be admitted into evidence at a fact-finding hearing. If the proceeding is transferred to a criminal court, no statement made to the probation department prior to a conviction may be admitted into evidence.

If this adjustment process is successful, the case is closed at the end of the adjustment period and there is no further action on the part of the juvenile justice system. All records pertaining to this matter will be sealed, to be opened only upon order to the court. If a case is not adjusted by the Probation Department, it shall notify the appropriate presentment agency. (5/90)

SUFFOLK COUNTY PROBATION DEPARTMENT ADJUSTMENT SERVICE LOCATIONS

JOHN P. COHALAN COURT COMPLEX
400 CARLETON AVENUE.
P.O. BOX 9082
CENTRAL ISLIP, NY 11722-9082
PHONE: (631)853-4246

RIVERHEAD COUNTY CENTER
CRIMINAL COURTS BUILDING
RIVERHEAD, N.Y. 11901
PHONE: (631)852-1939